

AMENDED IN SENATE MAY 10, 2007

SENATE BILL

No. 717

Introduced by Senator Perata

February 23, 2007

An act to add Section ~~7104.1~~ 7104.2 to the Revenue and Taxation Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 717, as amended, Perata. Transportation Investment Fund.

Existing law specifies the allocation of funds in the Transportation Investment Fund, derived from a portion of the sales tax on gasoline, to various transportation projects and programs. Article XIX B of the California Constitution requires, commencing with the 2003–04 fiscal year, that sales taxes on motor vehicle fuel that are deposited into the General Fund be transferred to the Transportation Investment Fund for allocation for those transportation purposes until the end of the 2007–08 fiscal year. Thereafter, Article XIX B requires these revenues to be allocated to broad categories of transportation purposes, including 20% for programs funded by the Public Transportation Account, 40% for transportation capital improvement projects in the State Transportation Improvement Program, and 40% for apportionment to cities and counties pursuant to certain formulas for road maintenance and construction purposes.

This bill would continue the Transportation Investment Fund in existence and would specify the use of revenues deposited in that fund from gasoline sales tax revenues subject to Article XIX B beginning in the 2008–09 fiscal year.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section ~~7104.1~~ 7104.2 is added to the Revenue and Taxation Code, to read:

~~7104.1.~~

7104.2. (a) The Transportation Investment Fund (hereafter the fund) in the State Treasury is hereby continued in existence. All revenues transferred to the fund pursuant to Article XIX B of the California Constitution beginning with the 2008–09 fiscal year shall be available for expenditure as provided in this section, subject to appropriation by the Legislature.

(b) All of the following shall occur on a quarterly basis:

(1) The State Board of Equalization, in consultation with the Department of Finance, shall estimate the amount that is transferred to the General Fund under subdivision (b) of Section 7102 that is attributable to revenue collected for the sale, storage, use, or other consumption in this state of motor vehicle fuel, as defined in Section 7304.

(2) The State Board of Equalization shall inform the Controller, in writing, of the amount estimated under paragraph (1).

(3) Commencing with the 2008–09 fiscal year, the Controller shall transfer the amount estimated under paragraph (1) from the General Fund to the fund.

(c) For each quarter, commencing with the 2008–09 fiscal year, the Controller shall make all of the following transfers and apportionments from the fund:

(1) To the Public Transportation Account, a trust fund in the State Transportation Fund, 20 percent of the revenues deposited in the fund.

(2) To the Department of Transportation for expenditure for transportation capital improvement projects subject to all of the rules governing the State Transportation Improvement Program, 40 percent of the revenues deposited in the fund.

(3) To the Controller for apportionment pursuant to paragraphs (A) and (B), 40 percent of the revenues deposited in the fund.

(A) Of the amount available under this paragraph, 50 percent shall be apportioned by the Controller to the counties, including a city and county, in accordance with the following formulas:

(i) Seventy-five percent of the funds payable under this subparagraph shall be apportioned among the counties in the

1 proportion that the number of fee-paid and exempt vehicles that
2 are registered in the county bears to the number of fee-paid and
3 exempt vehicles registered in the state.

4 (ii) Twenty-five percent of the funds payable under this
5 subparagraph shall be apportioned among the counties in the
6 proportion that the number of miles of maintained county roads
7 in each county bears to the total number of miles of maintained
8 county roads in the state. For the purposes of apportioning funds
9 under this subparagraph, any roads within the boundaries of a city
10 and county that are not state highways shall be deemed to be county
11 roads.

12 (B) Of the amount available under this paragraph, 50 percent
13 shall be apportioned by the Controller to cities, including a city
14 and county, in the proportion that the total population of the city
15 bears to the total population of all the cities in the state.

16 (d) Funds received under subparagraph (A) or (B) of paragraph
17 (3) of subdivision (c) shall be deposited as follows in order to avoid
18 the commingling of those funds with other local funds:

19 (1) In the case of a city, into the city account that is designated
20 for the receipt of state funds allocated for transportation purposes.

21 (2) In the case of a county, into the county road fund.

22 (3) In the case of a city and county, into a local account that is
23 designated for the receipt of state funds allocated for transportation
24 purposes.

25 (e) Funds allocated to a city, county, or city and county under
26 subparagraph (A) or (B) of paragraph (3) of subdivision (c) shall
27 be used only for street and highway maintenance, rehabilitation,
28 reconstruction, and storm damage repair. For purposes of this
29 section, the following terms have the following meanings:

30 (1) "Maintenance" means either or both of the following:

31 (A) Patching.

32 (B) Overlay and sealing.

33 (2) "Reconstruction" includes any overlay, sealing, or widening
34 of the roadway, if the widening is necessary to bring the roadway
35 width to the desirable minimum width consistent with the
36 geometric design criteria of the department for 3R (reconstruction,
37 resurfacing, and rehabilitation) projects that are not on a freeway,
38 but does not include widening for the purpose of increasing the
39 traffic capacity of a street or highway.

(3) “Storm damage repair” is repair or reconstruction of local streets and highways and related drainage improvements that have been damaged due to winter storms and flooding, and construction of drainage improvements to mitigate future roadway flooding and damage problems, in those jurisdictions that have been declared disaster areas by the President of the United States, where the costs of those repairs are ineligible for emergency funding with Federal Emergency Relief (ER) funds or Federal Emergency Management Administration (FEMA) funds.

(f) (1) Cities and counties shall maintain their existing commitment of local funds for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair in order to remain eligible for the allocation of funds pursuant to subparagraph (A) or (B) of paragraph (3) of subdivision (c).

(2) In order to receive any allocation pursuant to subparagraph (A) or (B) of paragraph (3) of subdivision (c), the city or county shall annually expend from its general fund for street, road, and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 1996–97, 1997–98, and 1998–99 fiscal years, as reported to the Controller pursuant to Section 2151 of the Streets and Highways Code. For purposes of this paragraph, in calculating a city’s or county’s annual general fund expenditures and its average general fund expenditures for the 1996–97, 1997–98, and 1998–99 fiscal years, any unrestricted funds that the city or county may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, expended for street and highway purposes shall be considered expenditures from the general fund. One-time allocations that have been expended for street and highway purposes, but which may not be available on an ongoing basis, including revenue provided under the Teeter Plan Bond Law of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code, may not be considered when calculating a city’s or county’s annual general fund expenditures.

(3) For any city incorporated after July 1, 1996, the Controller shall calculate an annual average of expenditure for the period between July 1, 1996, and December 31, 2000, that the city was incorporated.

1 (4) *For purposes of paragraph (2), the Controller may request*
2 *fiscal data from cities and counties in addition to data provided*
3 *pursuant to Section 2151, for the 1996–97, 1997–98, and 1998–99*
4 *fiscal years. Each city and county shall furnish the data to the*
5 *Controller not later than 120 days after receiving the request. The*
6 *Controller may withhold payment to cities and counties that do*
7 *not comply with the request for information or that provide*
8 *incomplete data.*

9 (5) *The Controller may perform audits to ensure compliance*
10 *with paragraph (2) when deemed necessary. Any city or county*
11 *that has not complied with paragraph (2) shall reimburse the state*
12 *for the funds it received during that fiscal year. Any funds withheld*
13 *or returned as a result of a failure to comply with paragraph (2)*
14 *shall be reallocated to the other counties and cities whose*
15 *expenditures are in compliance.*

16 (6) *If a city or county fails to comply with the requirements of*
17 *paragraph (2) in a particular fiscal year, the city or county may*
18 *expend during that fiscal year and the following fiscal year a total*
19 *amount that is not less than the total amount required to be*
20 *expended for those fiscal years for purposes of complying with*
21 *paragraph (2).*

22 (7) *The allocation made under subparagraph (A) or (B) of*
23 *paragraph (3) of subdivision (c) shall be expended not later than*
24 *the end of the fiscal year following the fiscal year in which the*
25 *allocation was made, and any funds not expended within that*
26 *period shall be returned to the Controller and shall be reallocated*
27 *to the other cities and counties pursuant to the allocation formulas*
28 *set forth in subparagraph (A) or (B) of paragraph (3) of subdivision*
29 *(c).*

30 ~~(f)~~

31 (g) *For the purpose of allocating funds under subparagraph (A)*
32 *or (B) of paragraph (3) of subdivision (c) to counties, cities, and*
33 *a city and county, the Controller shall use the most recent*
34 *population estimates prepared by the Demographic Research Unit*
35 *of the Department of Finance. For a city that incorporated after*
36 *January 1, 2008, that does not appear on the most recent population*
37 *estimates prepared by the Demographic Research Unit, the*

- 1 Controller shall use the population determined for that city under
- 2 Section 11005.3.

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